

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

- v. -

THE BANK OF NEW YORK MELLON and
DAVID NICHOLS,

Defendants.

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ECF Case

11 Civ. 6969 (LAK)

**DECLARATION OF
DANIEL H.R. LAGUARDIA**

I, DANIEL H.R. LAGUARDIA, declare as follows:

1. I am a member of the firm of Shearman & Sterling LLP, counsel for defendant David Nichols ("Nichols"). I make this declaration in support of Defendant David Nichols' Motion to Dismiss the Second Amended Complaint.

2. Attached hereto as **Exhibit 1** is a true and correct redacted copy of a document produced by The Bank of New York Mellon ("BNYM"), identified as BNYM-SDNY-0437745-48, and which appears to be cited in Paragraph 50 of the Second Amended Complaint, dated June 6, 2012 ("SAC").¹

3. Attached hereto as **Exhibit 2** is a true and correct copy of a document produced by BNYM, identified as BNYM-SDNY-0012870-87, and which appears to be cited in Paragraph 52 of the SAC.

¹ The names of BNYM's clients and/or the names of employees of BNYM's clients have been redacted from Exhibits 1, 4, 5, 6, 9, 10, and 11. A request to file Exhibit 4 under seal is pending with the Court.

4. Attached hereto as **Exhibit 3** is a true and correct copy of a document produced by BNYM, identified as BNYM-SDNY-0250656-63, and which appears to be cited in Paragraphs 57 and 62 of the SAC.

5. Attached hereto as **Exhibit 4** is a true and correct redacted copy of a document produced by BNYM, identified as BNYM-SDNY-0179660-65, and which appears to be cited in Paragraphs 51 and 121 of the SAC.

6. Attached hereto as **Exhibit 5** is a true and correct redacted copy of a document produced by BNYM, identified as BNYM-SDNY-0207065-85, and which appears to be cited in Paragraphs 51, 87, and 116 of the SAC.

7. Attached hereto as **Exhibit 6** is a true and correct redacted copy of a document produced by BNYM, identified as BNYM-SDNY-0200049-52, and which appears to be cited in Paragraph 88 of the SAC.

8. Attached hereto as **Exhibit 7** is a true and correct copy of an article, dated July 28, 2003, that was published in *Pensions Week* magazine.

9. Attached hereto as **Exhibit 8** is a true and correct copy of an interview with Nichols that was published in the June 2007 issue of *Global Finance* magazine.

10. Attached hereto as **Exhibit 9** is a true and correct redacted copy of a document produced by BNYM, identified as BNYM-SDNY-0234555-68, and which appears to be cited in Paragraph 43 of the SAC.

11. Attached hereto as **Exhibit 10** is a true and correct redacted copy of a document produced by BNYM, identified as BNYM-SDNY-0236809-13, and which appears to be cited in Paragraph 44 of the SAC.

12. Attached hereto as **Exhibit 11** is a true and correct redacted copy of a document produced by BNYM, identified as BNYM-SDNY-0229088-89, and which appears to be cited in Paragraph 110 of the SAC.

13. Attached hereto as **Exhibit 12** is a true and correct copy of the SAC.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 6th day of August, 2012 at New York, New York.



Daniel H.R. Laguardia